

## HOUSE BILL NO. 668

INTRODUCED BY NOONAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING EXCEPTIONS AND EXEMPTIONS TO PROHIBITIONS ON POSSESSION OF EXOTIC WILDLIFE FOR ROADSIDE MENAGERIES AND SCIENTIFIC TESTING FACILITIES; PROVIDING ENFORCEMENT ABILITY AND PRESCRIBED REMEDIES TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR VIOLATIONS; PROVIDING THE FISH, WILDLIFE, AND PARKS COMMISSION WITH AUTHORITY TO GRANT EXCEPTIONS; AMENDING SECTIONS 87-5-703, 87-5-704, 87-5-709, 87-5-712, AND 87-5-721, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**SECTION 1. SECTION 87-5-703, MCA, IS AMENDED TO READ:**

**"87-5-703. Applicability to other provisions for importation or introduction of wildlife.** Sections 87-5-701 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and 87-5-721 do not apply to ~~the importation of wildlife for the commercial pet trade or to~~ the provisions on importation or introduction of wildlife contained in the following laws:

- (1) Title 80;
- (2) 87-3-207 and 87-3-208;
- (3) 87-3-221 through 87-3-224 or 87-3-209, 87-3-210, and 87-3-225 through 87-3-227;
- (4) 87-4-422;
- (5) 87-5-112;
- (6) 87-5-205;
- (7) 87-5-302; or
- (8) Title 81, chapter 2."

**Section 2.** Section 87-5-704, MCA, is amended to read:

**"87-5-704. Rulemaking.** (1) The commission may adopt rules to implement 87-5-701, 87-5-702, and 87-5-711 through 87-5-715. In implementing 87-5-713, the commission may adopt rules approving species of wildlife that may be introduced by the department. In implementing 87-5-715, the commission may adopt rules

1 to authorize the control or extermination by the department of introduced wildlife species.

2 (2) The department may adopt rules to implement 87-5-713 and 87-5-715. In implementing 87-5-713  
3 and 87-5-715, the department may not adopt rules in the subject areas reserved to the commission in subsection  
4 (1).

5 (3) (a) The commission may adopt rules to implement 87-5-705 through 87-5-709 and 87-5-712  
6 regarding the importation, possession, and sale of exotic wildlife, including adoption of a list of controlled exotic  
7 wildlife and a list of prohibited exotic wildlife. The commission may by rule add to the list of noncontrolled exotic  
8 wildlife provided in 87-5-706. The department of livestock may not issue import permits for exotic wildlife on a  
9 list of controlled exotic wildlife or prohibited exotic wildlife without authorization from the department.

10 (b) The commission may adopt rules regarding the operation of the classification review committee  
11 established in 87-5-708.

12 (4) (a) The department may adopt rules regarding issuance of the authorization permit provided for in  
13 87-5-705(2), including the establishment of a reasonable fee for the permit.

14 (b) The department may adopt rules regarding the amnesty program provided for in 87-5-709(2)."  
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16 **Section 3.** Section 87-5-709, MCA, is amended to read:

17 **"87-5-709. Exceptions and exemptions to possession and sale of exotic wildlife.** (1) Sections  
18 87-5-705 through 87-5-708 and this section do not apply to:

19 (a) institutions that have established that their proposed facilities are adequate to provide secure  
20 confinement of wildlife, including:

21 ~~(a)(i) an accredited zoological garden chartered by the state as a nonprofit corporation if the zoological~~  
22 ~~garden establishes that the proposed facilities are adequate to provide secure confinement of the exotic wildlife~~  
23 ~~in question;~~

24 (ii) a roadside menagerie permitted under 87-4-803 that was established for the purpose of exhibition  
25 or attracting trade;

26 (iii) a research facility for testing and science that employs individuals licensed under 37-34-301 or that  
27 submits evidence to the department that it meets animal testing standards as provided by the national institutes  
28 of health, the national science foundation, the centers for disease control and prevention, the United States  
29 department of agriculture, or another similar nationally recognized and approved testing standard; or

30 (b) domestic animals.

(2) ~~The department shall institute and administer an amnesty program for exotic wildlife possessed by a person as of January 1, 2004, who is not in compliance with 87-5-705 through 87-5-708. Until January 1, 2005, a person who reports that person's noncompliance to the department may not be prosecuted for a violation based on the reported noncompliance.~~ Possession authorization Authorization for possession must be provided by the department for ~~species~~ exotic wildlife possessed as of January 1, 2004, and the authorization may include any conditions and restrictions necessary to minimize risks."

**Section 4.** Section 87-5-712, MCA, is amended to read:

**"87-5-712. Authority for commission to control importation, possession, or sale of certain wildlife species and exotic wildlife.** The commission may, after public hearing and recommendation by the classification review committee in 87-5-708, list by administrative rule wildlife species or exotic wildlife that may not be imported, possessed, or sold as pets for captive breeding for research or commercial purposes, for the commercial pet trade, or for any other reason. A wildlife species or exotic wildlife may be placed on the list only after the commission finds that:

(1) the exotic wildlife would not be readily subject to control by humans while in captivity;  
(2) if released from captivity, the exotic wildlife would pose a substantial threat to native wildlife and plants or agricultural production; or

(3) the exotic wildlife would pose a risk to human health or safety, livestock, or native wildlife through disease transmission, hybridization, or ecological or environmental damage.

(4) The commission may make exceptions for wildlife species or exotic wildlife otherwise prohibited under this section if the wildlife species or exotic wildlife is controlled in an institution listed in 87-5-709(1)(a) and under any conditions specified by the commission."

**Section 5.** Section 87-5-721, MCA, is amended to read:

**"87-5-721. Penalty -- license and permit revocation and denial.** (1) Except as provided in subsection (2), a person who violates a provision of this part is guilty of a misdemeanor punishable as provided in 87-1-102, and the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction.

(2) A person who intentionally imports, introduces, or transplants fish in violation of this part:

(a) is guilty of an offense punishable by a fine of not less than \$500 or more than \$5,000 and imprisonment for up to 1 year. A sentencing court may consider an appropriate amount of community service in lieu of imprisonment. A sentencing court may not defer or suspend \$500 of the fine amount.

(b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The damages may be recovered on behalf of the public by the department or by the county attorney of the county in which the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the department or a county attorney must be deposited in the state special revenue fund as provided in 87-1-601(1).

(c) upon conviction or forfeiture of bond or bail, shall forfeit from the date of conviction or forfeiture any current hunting, fishing, or trapping license issued under this title and the privilege to hunt, fish, or trap in this state for not less than 24 months. If the time necessary to eliminate or mitigate the effects of the violation exceeds 24 months, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for more than 24 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for the lifetime of that person.

(3) Any exotic wildlife held in violation of this part must be shipped out of state, returned to the point of origin, or destroyed within 6 months of a conviction or sooner if ordered by the court. The person in possession of the exotic wildlife may choose the method of disposition. If the person in possession of the exotic wildlife does not comply with this requirement, the department may confiscate and then house, transport, or destroy the unlawfully held exotic wildlife. The department may charge any person convicted of a violation of this part for the costs associated with the handling, housing, transporting, or destroying of the exotic wildlife."

**NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

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